

Remarks

Claims 1-21 are pending. Claim 15 is amended to incorporate the limitations of claim 14, from which it previously depended. Support for this amendment is found in claim 14 as filed. New claims 16-21 correspond to original claims 14, 2, 3, 6, 10, and 13, respectively, and support for these claims can be found in the claims as filed, and throughout the specification. No new matter is believed to be added by these amendments. Consideration and allowance of the pending claims is respectfully requested.

Response to Restriction Requirement

In the Office Action mailed May 30 2007, the claims were divided into three groups:

Group I, claim(s) 1-13, drawn to a method for extracting a compound from a plant material.

Group II, claim(s) 14, drawn to a method for producing a pesticidal spray oil.

Group III, claim(s) 15, drawn to a spray oil.

In response, applicants elect Group III, claim 15, with traverse. The Office Action also required that if any of claims 2, 4, 5, 6, or 13 were elected, that one species also be elected. Since newly added claims 17, 19, and 21 correspond to original claims 2, 6, and 13, applicants would like to elect the following species with traverse: from claim 17, the group methyl; from claim 19, the group polar oil; and from group 21, the group *Tasmannia stipitata*.

Regarding the group election, Applicants respectfully point out that PCT rule 13.1 states that an application "shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept." 37 CFR § 1.475(a) and PCT Rule 13.2 state that a

general inventive concept as being fulfilled when there is a technical relationship among those inventions involving one or more of the same or corresponding "special technical feature."

These rule then define a "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art. The claims are drawn to a method for extracting a compound from a plant material; a method for producing a pesticidal spray oil formulation including providing an extractant including a non sulfonated triacyl glycerol and/or fatty acid ester; and a spray oil.

The Examiner cites U.S. Patent 5,776, 481, which teaches a cylinder used for dispensing products onto animals. Specifically, the Examiner points to col. 10, lines 4-6, and states that this teaches a plant extract comprising a fatty acid ester. The Examiner also points to col. 8, lines 4-6 and states that this passage teaches an anti-parasitic effect. However, the passage found in col. 8 teaches that the anti-parasitic effect was achieved with the following composition: 3.5% of stabilizers and lubricants, 37.5% of plasticizer (di(2-ethylhexyl) phthalate) and 59% of poly(vinyl chloride) and the active external layer containing 15% by weight of amitraz (N-methyl-N'-2,4-xylyl-N-(N-2,4-xylylformimidoyl)formamidine), 3.5% of stabilizers and lubricants, 24.5% of plasticizer (di(2-ethylhexyl) adipate), 10% of filler (calcium carbonate) and 47% of poly(vinyl chloride). (Col. 7, bridging Col. 8). It is noted that nowhere in that list is a fatty acid ester mentioned at all, much less one derived from a plant. The passage found in column 10 does nothing to rectify this. Although a plant extract comprising a fatty acid ester is mentioned, it is in reference to a composition found to possess deodorant properties, not anti-parasitic properties. Therefore, U.S. Patent 5,776,481 in no way alone or in combination teaches the common technical feature of a plant extract comprising a fatty acid ester used as an anti-

parasitic. Thus, the Examiner has not met the burden of showing that the special technical feature present in the claims is anticipated or made obvious by the prior art and subsequently providing that the application does not provide a contribution over the prior art. Therefore, the special technical feature does allow the claims to form a single inventive concept. For at least this reason Groups I –III should be rejoined.

Regarding the species election, Applicants would like to point out that the 37 CFR 1.141 states: “Two or more independent and distinct inventions may not be claimed in one national application, except that more than one species of an invention, not to exceed a reasonable number, may be specifically claimed in different claims in one national application, provided the application also includes an allowable claim generic to all the claimed species...” In the present case, it would not cause an undue burden to the Examiner to search the generic independent claims together, as pointed out above. Furthermore, the species found in claims 2, 4, 5, 6, 13, 17, 19, and 21 are limited by the independent claims, which are also easily searchable.

For the reasons stated above, Applicants respectfully assert that restriction of the claims as set forth by the Examiner would be contrary to promoting efficiency, economy and expediency in the Patent Office and further point out that restriction by the Examiner is discretionary (M.P.E.P. § 803.01). Thus, applicants respectfully request that all of the claims of this application be examined together. Consequently, reconsideration and modification or withdrawal of the restriction requirement is requested.

Applicants also wish to remind the Examiner of the guidelines for rejoinder of claims as set forth in M.P.E.P. § 821.04, as they apply to the pending claims of the instant application.

Favorable consideration of claims 1-21 is earnestly solicited.

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It is believed no payment is due at this time; however, the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 14-0629.

Respectfully submitted,

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/Janell T. Cleveland/
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July 2, 2007
Date